



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,595	01/12/2004	Trudy Campellone	119569-00101	8028
27557	7590	03/02/2006	EXAMINER	
BLANK ROME LLP 600 NEW HAMPSHIRE AVENUE, N.W. WASHINGTON, DC 20037			DOOLEY, JAMES C	
			ART UNIT	PAPER NUMBER
			3634	
DATE MAILED: 03/02/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/754,595	Applicant(s) CAMPELLONE ET AL.	
	Examiner James C. Dooley	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Final Office Action is mailed in response to amendment filed 01/19/2006 wherein claims 1-2, 5-8, 10, 13 and 16 were amended, claims 3-4, 9, 11-12, 14-15, 17 were presented as original, and new claims 18-20 were introduced.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the flower holder must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

Art Unit: 3634

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In lines 2-3, it is improper to link the size of an object (the legs) relative to a functionally recited object (the flower holder).

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The flower holder has only been previously cited in claim 1 line 3 as a functional object. It is improper to further define a functionally recited element.

Claims 5, 13 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant has not previously disclosed, "a handle formed at the lower portion".

Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Line 1 of claim 13 is an improper method step. Proper language would be such as: ~~--wherein~~ further comprising providing the flower holder has with...--.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Aldridge et al. (US 5,572,934). Aldridge et al. disclose a stand having a frame (16) with openings (26) on the top surface (12). Aldridge et al. also discloses the combination of the stand with a flower holder (24) received in two openings around hatch (14). Applicant's broad recitation of a "flower holder" is considered to met by the Aldridge et al. ('934) reference which shows a "perforated hatch door", since the reference is considered to be capable of functioning as a flower organizer to the same degree and in the same manner as the claimed recitation noted.

With respect to claim 2 and 20, Aldridge et al. disclose legs (22) extending downward from the top surface. Accordingly, an appropriately selected flower holder would have a portion shorter than the legs.

With respect to claim 3, the legs (22) are foldable (see column 2 lines 25-26).

With respect to claim 4, top surface (12) has a plurality of openings (see fig. 1).

With respect to claim 5 and 19, Aldridge et al. disclose a flower holder (24), which has an upper (top) and lower (bottom) surface and is received in openings around hatch 14. The handle is understood to be the semi-circular cut-outs formed on the side where the flower holder (24) would most likely be gripped. The lower portion of the holder (24) passes through the opening and rests on a lip (28) while the upper portion is received in the opening.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aldridge et al. ('934) alone. Aldridge et al. disclose a stand having a frame, top surface, openings in the top surface, and foldable legs. Aldridge et al. do not disclose the specific dimensions of the size and spacing of the openings in the top surface. Aldridge et al. do not disclose the frame being made from PVC pipe or the tabletop being made from acrylic.

With respect to claims 6 and 9, Aldridge et al. do not disclose the specific dimensions of the openings, it would have been obvious to one with ordinary skill in the

Art Unit: 3634

art at the time of the invention to size and space these holes according to any dimension. The motivation being to create a design appropriate for a specific function.

With respect to claims 7 and 8, Aldridge et al. disclose the tabletop and frame being made of plastic (col. 1 ln. 65-67). Acrylic and PVC are types of plastic. Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to use any type of plastic material for the tabletop and frame. The motivation being to choose an appropriate material according to function and cost.

Claims 10-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aldridge et al. ('934) in view of Zimmermann (5,375,370). Aldridge et al. disclose a stand having a frame, top surface, openings in the top surface, foldable legs, and a flower holder as described above. Aldridge et al. do not disclose a method of arranging flowers in the openings. Zimmermann teaches a flower arrangement holder having a top surface (11), collapsible legs (col. 4 ln. 37-40), and openings in the top surface (13,14,15,16,17).

The stand of Aldridge et al. is disclosed to be a stand for cleaning seafood, Aldridge et al. do not teach away from using the stand for alternate purposes. Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to utilize the apertures of Aldridge et al. for arranging flowers as taught by Zimmerman. As the stand of Aldridge et al. has all the essential flower arranging components taught by Zimmer one would be motivated to use the stand according to the method taught by Zimmerman.

With respect to claims 14 and 17, neither Aldridge et al. nor Zimmerman teach the specific dimensions of the openings, Zimmerman does teach using the stand for arranging flowers. Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to size and space these holes according to any type of flower or flower holder used in conjunction therewith. The motivation would be to create a design appropriate for the size and shape of the flower bouquets being arranged.

With respect to claims 15 and 16, Aldridge et al. teach the tabletop and frame being made of plastic (col. 1 ln. 65-67). Acrylic and PVC are types of plastic. Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to use any type of plastic material for the tabletop and frame. The motivation would be to choose an appropriate material according to function and cost.

Response to Arguments

Applicant's arguments filed 1/17/2006 have been fully considered but they are not persuasive. Applicant has amended claims 1,2,5,13,18,19, and 20 to further limit the claims by making reference to a flower holder. Because the configuration of the flower holder has been neither described nor claimed these references are not seen as further limiting the scope of the claim.

Applicant has amended claims 6,7, and 16 to address previous claim objections and section 112, 2nd paragraph rejections. These amendments have not overcome the previously presented section 102 (b) and section 103(a) rejections.

Applicant has amended claim 10 line 2, to include "said top surface having at least one opening therein." As discussed in the previous office action Aldridge et al. ('934) disclose this feature.

In Applicant's remarks page 9, line 1 Applicant has stated, "Aldridge is simply not capable of receiving a flower holder." With no disclosure of the configuration of a flower holder this statement is not convincing, as the structure of Aldridge is similar to the structure of Applicant's apparatus.

In Applicant's remarks on page 10, Applicant has argued that Aldridge et al. do not teach the holes to be sufficiently sized to receive a flower holder. The reference applicant has cited (Cumbly 6,561,464 and Hendrix 5,996,813) regarding the configuration of the flower holder shows that the opening need only be large enough to receive an arm of the holder. The perforations of Aldridge et al. appear to be sized appropriately to receive an arm as taught by Cumbly and Hendrix.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

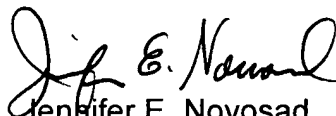
Art Unit: 3634

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C. Dooley whose telephone number is 571-2721679. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jennifer E. Novosad
Primary Examiner
Art Unit 3634

02/23/2006